

EXHIBIT A

DARPA COOPERATIVE AGREEMENT GENERAL TERMS AND CONDITIONS FOR PROFIT ORGANIZATIONS

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1. Administrative Information: This Cooperative Agreement will be administered in accordance with the *DoD Grants and Agreement Regulations*, DoDGARS, (DoD 3210.6-R), Part 34 – Administrative Requirements for Grants and Agreements with For-Profit Organizations as of the effective date of this award.

2. Order of Precedence: In the event of a conflict between the terms of this Agreement and other governing documents, the conflict shall be resolved by giving precedence in descending order as follows:

- (a) The DoDGARS;
- (b) The Award;
- (c) The articles contained in the agreement; and
- (d) The attachments to this Agreement, if any.

3. Research and Management Responsibility:

(a) The Recipient has full responsibility for the conduct of the research activity supported under this Agreement, in accordance with the Recipient's proposal, and the terms and conditions specified in this Agreement. Recipients are encouraged to suggest or propose to discontinue or modify unpromising lines of investigation or to explore interesting leads which may appear during the development of the research. However, they must consult the Grant Officer's Representative (GOR) through the Administrative Grants Officer (AGO) before significantly deviating from the objectives or overall program of the research originally proposed.

(b) The Recipient shall immediately notify the Grants Officer (GO) of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

(c) Substantial involvement is expected between the Government and the Recipient; however, overall management of the coordinated research program as established under this Agreement, including technical, programmatic, reporting, financial and administrative matters, shall be accomplished by the Recipient.

4. Amendment of Agreement:

(a) Amendments may be requested by either party. Recipient requests for amendments to this Agreement must be submitted in writing to the GOR, with a copy to the Grants Officer, before the desired effective date. The Recipient shall detail the technical, chronological, and financial impact of the proposed amendment to the program. Changes are effective only after the agreement has been modified. *No other communications, whether oral or in writing, are valid.*

Only the Grants Officer has the authority to act on behalf of the Government to modify this agreement.

(b) The Grants Officer may unilaterally issue minor or administrative agreement modifications (e.g., changes in the paying office or appropriation data, changes to Government personnel identified in the agreement, etc).

5. Standards for Financial Management Systems: The Recipient's shall establish or use existing financial systems that comply with the standards set forth in DoDGARs §34.11.

6. Administration and Cost Principles: Applicable to this Agreement, and incorporated herein by reference, are the requirements, standards, and provisions of the appropriate Department of Defense Grant and Agreement Regulations (DoDGARs) and OMB Circulars and attachments thereto, revised as to the effective date of this agreement, as listed below. For the purposes of this Article, the term "appropriate" is determined by the organizational nature of the Recipient (for-profit, educational institution, nonprofit organization, state or local government).

- (a) 32 CFR part 34 "Administrative Requirements for Grants and Agreement with For-Profit Organizations"
- (b) 32 CFR part 22, "DoD Grants and Agreements – Award and Administration"
- (c) 32 CFR part 32, "Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations"
- (d) 32 CFR part 33, "Uniform Administrative Requirements for Grants and Cooperatives Agreements to State and Local Governments"
- (e) A-21, "Cost Principles for Educational Institutions"
- (f) A-102, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations"
- (g) A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations"
- (h) A-122, "Cost Principles for Non-Profit Organizations"
- (i) A-133, "Audits of States, Local Governments, and Non-Profit Organizations"

7. Program Income: Pursuant to DoDGARs §34.14 (d)(3), program income earned during the project period shall be retained by the Recipient and shall be deducted from the total project or program allowable cost in determining the net allowable costs on which the Government's share of costs is based.

8. Prior Approvals:

(a) All prior approvals required by DoDGARs §34.15 are waived hereby except for the following:

(1) Change of scope or objectives as required by Article 3 of the Terms and Conditions entitled "Research Responsibility."

(2) Change of key personnel as required by Article 19 of the Terms and Conditions entitled "Principal Investigator."

(3) Extension of the expiration period of this Agreement.

(4) The need for additional Federal funding.

(b) Preaward Costs

(1) Recipients may incur preaward costs of up to ninety (90) days prior to the effective date of the Cooperative Agreement award.

(2) Preaward costs as incurred by the Recipient must be necessary for the effective and economical conduct of the project and the costs must be otherwise allowable in accordance with the appropriate cost principles.

(3) Any preaward costs are made at the Recipient's risk. The incurring of preaward costs by the the Recipient does not impose any obligation on the Government, in the absence of appropriations, if an award is not subsequently made or if an award is made for a lesser amount than the Recipient expected.

(c) Unexpended Balances - In the absence of any specific notice to the contrary; Recipients are authorized to carry forward unexpended balances to subsequent funding periods.

9. Audit and Access to Records: The Recipient and its subrecipients shall be subject to the audit requirements below:

(a) Audit. Any Recipient that expends more than \$300,000 in one year under a Federal award shall have an audit made for that year by an independent auditor, in accordance with DODGARs §34.16. The auditor's report shall be made available to the Defense Advanced Research Projects Agency's Contract Management Office. The audit shall be made a part of the regularly scheduled, annual audit of the recipient's financial statements. However, the recipient may have Federal awards separately audited, if it elects to do so unless prohibited by Federal laws or regulations.

(b) Retention of Records. The Recipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to an award for a period of three

years from the date of submission of the final expenditure report in accordance with DoDGARs §34.42.

(c) Access to Records. DoD Components, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents pursuant to DoDGARs §34.42.

10. Procurement: The Recipient's procurement procedures under this Agreement shall comply with DoDGARS §34.30 and §34.31.

11. Subawards and Contracts/Subcontracts: The Recipient shall apply to each subaward the administrative requirements of the DoDGARs applicable to the particular type of organization receiving the subaward, contract or subcontract. In addition to OMB circular A-21, the other applicable cost principles are:

(a) OMB Circular A-122, applicable to other nonprofit organizations, except those specifically exempted by the circular.

(b) Subpart 31.2 of the Federal Acquisition Regulation (48 CFR 31.2), applicable to commercial firms and those nonprofit organizations specifically exempted from the provisions of OMB Circular A-122.

(c) OMB Circular A-87 (34 CFR 255), for state, local and Indian Tribal governments.

(d) 45 CFR 74, Appendix E, for hospitals.

12. Fee or Profit: In accordance with DODGARs §22.205(b), this Agreement shall not provide for the payment of fee or profit to the Recipient nor shall it be used to carry out programs where fee or profit is necessary to achieve program objectives.

13. Property:

(a) Property Management. The Recipient shall manage property in accordance with DODGARs §34.20 through §34.25.

(b) Title to Property. Recipient may purchase real property or equipment in whole or in part with Federal funds under this Agreement only with the prior approval of the Grants Officer. Title to such real property or equipment shall vest in the Recipient upon acquisition subject to the following conditions:

(1) Use the property or equipment for the authorized purposes of the project until funding for the project ceases, or until the property is no longer needed for the purposes of the project;

(2) Not encumber the property without approval of the Grants Officer; and

(3) Use and dispose of the property in accordance with DODGARs §34.21 (d) and (e).

14. Reports and Reports Distribution: Reports shall be furnished as specified below:

(a) Report Types.

(1) Quarterly R&D Status Report - This report, due 30 days after the reporting period, shall keep the Government informed of Recipient activity and progress toward accomplishment of Agreement objectives and advancement in state-of-the-art on the research and development involved including progress made toward achieving program performance goals. In addition, this report shall include the following business-related details: summarized details of the status of resources; accounting of expenditures for the period covered by the report; comparison of resource status with any payment and expenditure schedules or plans provided in the original proposal; explanation of any major deviations from those schedules; and discussion of proposed actions to address the deviations.

(2) Special Technical Report - This report, due as required, shall document the results of a significant task, test, event or symposium.

(3) Final Technical Report - This report, due 90 days after expiration or termination of the Agreement, shall document the results of the complete effort.

(4) Final Financial Status Report - This report, due 90 days after completion of the Agreement, shall be submitted on a Standard Form 269 or 269A. The report shall be on a cash or accrual basis, depending on how the Recipient's accounting records are normally kept.

(b) Report Distribution.

<u>Addresses</u>	<u>Report Types (15(a))</u>	<u>Number of Copies</u>
Grant Officer's Representative	1, 2, 3	2
	4	1
Administrative Grants Officer	3	1
	4	2
DARPA/Technical Information Library	3	1
Defense Technical Information Center ATTN: BCS	3	2

8725 John J. Kingman Road, Suite 0944
Ft. Belvoir, VA 22060-0944

DARPA Grants Officer

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15. Terminations and Enforcement:

(a) Termination. Pursuant to DoDGARs §34.51, this Agreement may be terminated, in whole or in part by the Grants Officer, if the Recipient materially fails to comply with these terms and conditions or with the consent of the Recipient. The Recipient may terminate the Agreement upon sending written notification to the Grants Officer as set forth in DoDGARs §34.51(a)(3).

(b) Enforcement. If the Recipient fails to materially comply with these terms and conditions, the Grants Officer may impose special conditions as outlined in DoDGARs §34.4 or take the appropriate action as listed at DoDGARs §34.52(a)(1) – (5).

16. Disputes, Claims, and Appeals:

(a) Disputes and Claims. The Grantee may submit a claim arising out of or relating to the Grant by submitting the claim in writing to the Grants Officer for decision. The written submission must specify the nature and basis for the relief requested and include all data that supports the claim. Within 60 calendar days, the Grants Officer shall, pursuant to DoDGARs §22.815(d), either prepare a written decision or notify the Grantee of a specific date when a decision will be rendered. The decision of the Grants Officer shall be final unless the Grantee decides to appeal.

(b) Appeals. The Grantee, under DoDGARs §22.815(e), may appeal the Grants Officer decision by filing a written notice of appeal to the Grant Appeal Authority and the Grants Officer within 90 days of receiving the decision. The Grant Appeal Authority shall decide the appeal based solely on the written record unless the Grant Appeal Authority decides to conduct a fact-finding procedure or an oral hearing on the appeal.

(c) Non-Exclusivity of Remedies. Nothing in this article is intended to limit a Recipient's right to any remedy under the law.

17. After-the-Award Requirements: Closeout, subsequent adjustments, continuing responsibilities and collection of amounts due are subject to the requirements in DoDGARs §34.61 through §34.63 and DoDGARs §22.820. Final payment cannot be made nor can the agreement be closed out until the Recipient delivers to the Government all disclosures of subject inventions required by this agreement, an acceptable final report pursuant to the article entitled Final Report, and all confirmatory instruments. The GO may make a settlement for any downward adjustment to the Federal share of costs after closeout reports are received.

18. Principal Investigator: Support for the project may not continue without the active direction of the Principal Investigator (PI) approved for, and identified in, this Agreement. If the approved PI (1) severs his or her connection with the Recipient, or (2) otherwise relinquishes active direction of the project, either permanently or for a significant length of time (three months or more), then the Recipient must either:

(a) appoint a replacement PI with the approval of the GOR, or

(b) relinquish the Agreement, in which case the Agreement shall be terminated in accordance with DoDGARs §34.51 entitled “Termination”.

19. Nondiscrimination: By signing or accepting funds under this agreement, the Recipient assures that it will comply with applicable provisions of the following national policies prohibiting discrimination:

(a) Title VI of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000d, et seq.) as implemented by DoD regulations at 32 CFR part 195. Said Act, as amended, and regulations are incorporated in this Grant by reference;

(b) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.) (Universities only). Said Amendments are incorporated in this Agreement by reference;

(c) Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR Part 90. Said Act and amendments are incorporated in this Agreement by reference;

(d) Rehabilitation Act of 1973 (29 U.S.C. 794) as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56.

20. Live Organisms:

(a) Human Subjects. Agreement funds may NOT be used for research that uses uninformed or nonvoluntary humans as experimental subjects. The Recipient is responsible for the protection of the rights and welfare of any human subjects involved in research, development, and related activities supported by this Agreement. The Recipient agrees to comply with the Common Federal Policy for the Protection of Human Subjects, codified by the Department of Health and Human Services at 45 CFR part 46 implemented by the Department of Defense at 32 CFR part 219.

(b) Animal Welfare. Any Recipient performing research, experimentation, or testing involving the use of animals shall comply with the rules on animal acquisition, transport, care, handling, and use in : (i) 9 CFR parts 1-4, Department of Agriculture rules that implement the Laboratory Animal Welfare Act of 1966, as amended, (7 U.S.C. 2131-2156); and (ii) the guidelines described in National Institutes of Health Publication No. 86-23, “Guide for the Care and Use of Laboratory Animals”.

21. Clean Air and Water: If the amount of the Agreement exceeds \$100,000, the Recipient assures that it will comply with the applicable provisions of the Clean Air Act (42 U.S.C. 7401 et seq.), as amended and the Clean Water Act (33 U.S.C. 1251 et seq.), as implemented by Executive Order No. 11738 (3 CFR, 1971-1975 Comp. P. 799), and the related regulations of the Environmental Protection Agency (EPA) (40 CFR part 15). Said regulations, Executive Order, and Acts are incorporated in this Agreement by reference.

The Recipient further agrees that it will not use any facility on the EPA's List of Violating Facilities in performing any award that is nonexempt under 40 CFR 15.5, as long as the facility remains on the list. If, in performing this award, the Recipient intends to use a facility that is on the List of Violating Facilities or that the recipient knows has been recommended to be placed on the List of Violating Facilities, the Recipient shall notify DARPA.

22. Officials Not to Benefit: No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this Agreement, or to any benefit arising from it, in accordance with 41 U.S.C. 22.

23. Transportation Preferences:

(a) U.S. Flag Carriers. Travel supported by U.S. Government funds under this Agreement shall use U.S.-flag air carriers (air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981 amendment to Comptroller General's Decision B-138942. Such Act and guidelines are incorporated in this Agreement by reference.

(b) Cargo Preference. The Recipient agrees that it will comply with the Cargo Preference Act of 1954 (46 U.S.C. 1241), as implemented by Department of Transportation regulations at 46 CFR 381.7 which require that at least 50 percent of equipment, materials, or commodities procure or otherwise obtained with U.S. Government funds under this Agreement, and which may be transported by ocean vessel, shall be transported on privately owned U.S.-flag commercial vessels, if available.

24. Paperwork Reduction Act: This Agreement shall be subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3500, et seq.) only under either of the following circumstances:

(a) The Government specifically requests the Recipient to collect information using forms, schedules, questionnaires, or other methods calling for answers to:

(1) Identical questions from ten or more persons other than agencies, instrumentalities, or employees of the United States; or

(2) Questions from agencies, instrumentalities, or employees of the United States, which are to be used for statistical compilations of general public interest.

(b) The terms and conditions of this Agreement require specific approval by the Government of such information collection or the collection procedures.

25. Metric System: The Recipient shall use the metric system, to the maximum extent practicable, in measurement-sensitive activities supported by this Agreement and in measurement-sensitive outputs of this Agreement.

26. Resource Conservation and Recovery Act: In accordance with the Resource Conservation and Recovery Act (section 6002, Pub. L. 94-580, 42 U.S.C. 6962), State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the guidelines developed by the Environmental Protection Agency.

27. Restrictions on Printing: Unless otherwise authorized in writing by the Grants Officer, reports, data, or other written material produced using funds provided by this Agreement and submitted hereunder shall be reproduced only by duplicating processes and shall not exceed 5,000 single page reports or a total of 25,000 pages of a multiple page report. These restrictions do not preclude the writing, editing, and preparation of manuscript or reproducible copy of related illustrative materials if required as a part of this Agreement, or incidental printing such as forms or materials necessary to be used by the Recipient to respond to the terms of the Agreement. To satisfy the requirements of the Defense Technical Information Center, at least one copy of each technical report submitted to the Defense Technical Information Center must be black typing or reproduction of black on white paper or suitable for reproduction by photographic techniques. Reprints of published technical articles are not within the scope of this paragraph.

In accordance with Executive Order 12873, dated October 20, 1993, as amended by Executive Order 12995, dated March 25, 1996, the Recipient is encouraged to submit paper documents, such as letters or reports, that are printed/copied double-sided on recycled paper that has at least 30 percent post consumer material.

28. Publication: Publication of results of the research project in appropriate professional journals is encouraged as an important method of recording and reporting scientific information. One copy of each paper planned for publication shall be submitted to the GOR simultaneously with its submission for publication. Following publication, copies of published papers shall be submitted to the GOR.

29. Acknowledgment of Sponsorship:

(a) The Recipient agrees that in the release of information relating to this Agreement, such release shall include a statement to the effect that (1) the project or effort depicted was or is sponsored by the Defense Advanced Research Projects Agency, (2) the content of the

information does not necessarily reflect the position or the policy of the Government, and (3) no official endorsement should be inferred.

(b) For the purpose of this article, information includes news releases, articles, manuscripts, brochures, advertisements, still and motion pictures, speeches, trade association proceedings, symposia, etc.

(c) Nothing in the foregoing shall affect compliance with the requirements of the clause entitled "Security."

30. Information Technology: All Information Technology (IT) under this Agreement shall be "year 2000 compliant".

IT, as used in this part, means all computer related hardware and/or software purchased and/or developed under this Agreement.

"Year 2000 compliant", as used in this part, means, with respect to IT, that the IT accurately processes date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other IT, used in combination with the IT being acquired, properly exchanges date/time data with it.

31. Patent Rights:

(a) Small Business Concerns. Patent rights are as specified in DoDGARs §34.25(a)(1), citing 37 CFR 401.14, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements", which titles and sections are incorporated herein by reference. The "Standard patent rights clause" at 37 CFR 401.14 is modified as follows: replace the word "contractor" with "recipient"; replace the words "contract" with "agreement"; delete paragraphs (g)(2),(g)(3) and the words "to be performed" by a small business firm or domestic nonprofit organization" from paragraph (L), point of contact for all matters relating to this article will be serviced by the Staff Office of General Counsel..

(b) Other than Small Business Concerns. Patent rights are as specified in DoDGARs §34.25(a)(2), citing 35 U.S.C 210(c) and Executive Order 12591 (3 CFR, 1987 Comp., p. 220) (which codifies a Presidential Memorandum on Government Patent Policy, dated February 18, 1983.), which titles and sections are incorporated herein by reference.

(c) Patent Reports. The Recipient shall utilize DD Form 882, Report of Inventions and Subcontracts, for submission of interim and final invention reports. The DD Form 882 and all invention disclosures shall be submitted to the Administrative Grants Officer for proper disposition and forwarding to the Gants Officer.

32. Rights in Technical Data, Computer Software, and Copyright:

(a) Copyright. Rights are as specified in DoDGARs §34.25(b)(1) which is incorporated herein by reference.

(b) Technical Data and Computer Software. Rights are as specified in DoDGARs §34.25(b)(2) which is incorporated herein by reference.

33. Research Involving Recombinant DNA Molecules: Any Recipient performing research involving recombinant DNA molecules and/or organism and viruses containing recombinant DNA molecules agrees, by acceptance of this award, to comply with the National Institutes of Health "Guidelines for Research Involving Recombinant DNA Molecules," July 5, 1994 (59 FR 34496) as amended, or such later revision of those guidelines as may be published in the Federal Register.

34. Activities Abroad: The Recipient shall assure that project activities carried on outside the United States are coordinated, as necessary, with appropriate Government authorities and that appropriate licenses, permits, or approvals are obtained prior to undertaking proposed activities. The awarding agency does not assume responsibility for Recipient compliance with the laws and regulations of the country in which the activity(ies) is (are) to be conducted.

35. Security: The Recipient shall not be granted access to classified information under this Agreement. If security restrictions should happen to apply to certain aspects of the proposed research, the Recipient will be so informed. In the event that the scientific work under this Agreement may need classification, or involve access to or storage of any classified data, the Government shall make its decision on the need to classify, or require such access or storage, within 30 days after receipt of written notice from the Recipient. If the decision is affirmative, the Government shall invoke the clause in DoDGARs §34.51 entitled "Termination".

36. Drug-Free Requirements: This Agreement is subject to the requirements of the Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act Amendments of 1989.